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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/774,620 | 02/01/2001 | Tomoshi Hirayama | 202491US6 | 3053 |
| 22850 | 7590 | 06/26/2006 | EXAMINER | |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | BLAIR, DOUGLAS B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2142 | |

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/774,620 | Applicant(s) HIRAYAMA, TOMOSHI | |
| | Examiner Douglas B. Blair | Art Unit 2142 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 195-202 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 195-202 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/29/2006 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two separate data-transmitting sections of claim 195 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 195 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 195 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: it is unclear in claim 195 whether the first and second data-transmitting sections are transmitting the same data or different data since both appear to transmit content program data and auxiliary data. The Examiner would like clarification as to what the purposes is of having two data-transmitting sections.

7. Claim 195 recites the limitation "a second data-transmitting section configured to select the auxiliary data items to be inserted into the program data" in the final limitation of the claim. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether the "auxiliary data items" and "program data" are those previously referred two with reference to the

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“first data transmitting section” or the “edit control section” or if the these different sections of the system are all operating on the same data.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 195-201 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Number 7,010,492 to Bassett et al. in view of U.S. Patent Number 6,658,568 to Ginter et al..

10. As to claim 195, Bassett teaches a data-provisioning system comprising: a first data-transmitting section for transmitting a continuous stream of content data that consists of multimedia content groups, each composed of program data and auxiliary data items (col. 13, line 6-col. 14, line 4); an edit control section for performing an editing operation on the attributes of each program data and auxiliary data items and the profile data of a user apparatus, thereby automatically assembling new content data (col. 13, line 6-col. 14, line 4); and a second data-transmitting section for selecting the auxiliary data items to be inserted into the program data in accordance with the new content data assembled by the edit control section, thereby to transmit a continuous stream of adapted content data that consists of multimedia content groups, each composed of the program data and the auxiliary data items (col. 13, line 6-col. 14, line 4);

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however Bassett does not explicitly teach auxiliary data items including an effective reproduction date.

Ginter teaches a system for distributing content wherein auxiliary data items include an effective reproduction date (col. 120, lines 47-67).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Bassett regarding a server for distributing content with the teaching of Ginter regarding with rights protection because an effective reproduction date allows a distributor to protect its copyrights (col. 120, lines 47-67).

11. As to claim 196, Bassett teaches the system of claim 195 further comprising a data server apparatus for changing the order of the items of the content data which has been assembled by the edit control section and which consists of multimedia content groups, each consisting of the program data and the auxiliary data items, and for outputting the items of content data in the order changed, thereby to transmit the content data (col. 13, line 6-col. 14, line 4).

12. As to claim 197, Bassett teaches the system according to claim 195, further comprising a data server apparatus for skipping a certain auxiliary data items contained in the content data which has been assembled by the edit control section and which consists of multimedia content groups, each consisting of the program data and the auxiliary data items, thereby to transmit the content data (col. 13, line 6-col. 14, line 4).

13. As to claim 198, Bassett teaches the system according to claim 195, further comprising a data server apparatus for transmitting additional auxiliary data items, together with the content data which has been assembled by the edit control section and which consists of multimedia

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content groups, each consisting of the program data and the auxiliary data items (col. 13, line 6-col. 14, line 4).

14. As to claim 199, Bassett teaches the system according to claim 198, wherein the data server apparatus acquires the additional auxiliary data items from an external system, by the use of the edit control section (col. 13, line 6-col. 14, line 4).

15. As to claim 200, Bassett teaches the system according to claim 198, wherein the data server apparatus incorporates means for generating the additional auxiliary data items (col. 13, line 6-col. 14, line 4).

16. As to claim 201, Bassett teaches The system according to claim 195, further comprising a data terminal apparatus for changing the order of the items of the content data which has been assembled by the edit control section and which includes multimedia content groups, each including the program data and the auxiliary data items, and for transmitting the items of content data in the order changed (col. 13, line 6-col. 14, line 4).

17. Claims 195-201 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 7,010,492 to Bassett et al. in view of U.S. Patent Number 6,658,568 to Ginter et al. in further view of U.S. Patent Number 6,898,706 Venkatesan et al..

18. As to claim 202, the Bassett-Ginter combination teaches the data-providing system of claim 195, however the Bassett-Ginter combination does not explicitly teach the auxiliary data items including, at least, a validity term and conditions relative to the assignment of rights for editing attributes of each auxiliary data item.

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Venkatesan teaches auxiliary data items including, at least, a validity term and conditions relative to the assignment of rights for editing attributes of each auxiliary data item (col. 28, lines 10-59).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Bassett-Ginter combination regarding a data-providing system with the teachings of Venkatesan regarding validity terms and conditions because validity terms and conditions preserve control over media (Venkatesan, col. 2, line 43-col. 3, line 3).

Response to Arguments

19. Applicant's arguments with respect to claim 195 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Douglas Blair
DBB



BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER